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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

VOLTAGE PICTURES, LLC, and
MAXCON PRODUCTIONS, INC.,

Plaintiffs,
v.
DOE, a/k/a IP 76.115.46.230

Defendant.

Case No.: 3:13-cv-00836-AA

DECLARATION OF COUNSEL IN
SUPPORT OF
PLAINTIFFS' MOTION TO STRIKE
PLEADINGS OF ATTORNEY ROBERT
SWIDER ON BEHALF OF DEFENDANT

Under penalty of perjury I, Carl D. Crowell, hereby state as follows:

1. I am an attorney admitted to practice in Oregon and plaintiffs' counsel in this matter.
2. All matters in this declaration are submitted through personal knowledge and belief.
3. The complaint in this matter is a derivative complaint from an original joined complaint, USDC OR 3:13-cv-00295-AA. After defendant was ordered severed from the original complaint, the instant complaint was filed on May 17, 2013.

4. Counsel Robert Swider claimed to represent the original Doe #270 in the predecessor case and has claimed to represent the defendant in this derivative case in filings with the Court. Doc. 13, Motion to Dismiss; Doc. 16, Reply.
5. In conferrals with Mr. Swider to ascertain the true identity of the defendant to permit continued discovery, even with offers to allow the defendant to remain anonymous and identified only under seal, it was disclosed that Mr. Swider does not in fact represent the defendant.
6. In a confirming email, Mr. Swider affirmed, “... I represent Kevin Balmer. At the present time we have not been engaged by anyone else in connection with these claims. As I have consistently indicated it is our position that Mr. Balmer is not an infringer. I want to correct a statement I made to you earlier - although my client has been out of the country from time to time, he was actually not out of the country but was out of State at the time of the alleged infringement.”
7. Plaintiffs have no reason to doubt Mr. Swider’s claim that the Defendant was “out of the State at the time of infringement.”

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: November 7, 2013.

/s/ Carl D. Crowell
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